



Office of the Attorney General
State of Texas

December 30, 1994

DAN MORALES
ATTORNEY GENERAL

Mr. Edward H. Perry
Assistant City Attorney
City of Dallas
City Hall
Dallas, Texas 75201

OR94-868

Dear Mr. Perry:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 29103.

The City of Dallas (the "city") received the following request¹:

all internal memoranda and working documents relating to the response to the request for proposals relating to a new sports arena complex proposed for the City of Dallas. Including, but not limited to all evaluations both paper and electronic of all architects, engineers, construction managers, financial consultants and all information provided by said same consultants to the City of Dallas. Please include any and all information relating to the Dallas Mavericks and all memoranda that relate to communication with the Dallas Mavericks regarding a new arena.

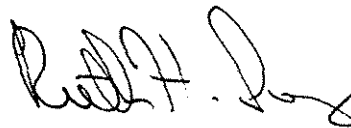
The city has already released certain responsive information to the requestor, but not the names of the city employees who evaluated the potential contractors. Each evaluation form has a section that shows the name of the employee who filled out the form, along with his or her handwritten evaluation scores and remarks. We note that a second requestor and his attorney also sought these evaluation forms and agreed to accept the de-identified forms. However, this requestor has not agreed to the de-identification. You contend that the names of the evaluators are excepted from disclosure under section 552.111.

¹The request letter was dated July 28, 1994, but was not received by the city until August 22, 1994. The city timely requested a decision from this office within ten days of the date of receipt of the letter. See §§ 552.301, .302. (governmental entity must seek a decision within ten days of receipt of request or information is presumed public)

Section 552.111 excepts from disclosure interagency or intra-agency communications "consisting of advice, recommendations, opinions, and other material reflecting the deliberative or policymaking processes of the governmental body." Open Records Decision No. 615 (1993) at 5.² You state that "[t]he deliberative process would be hindered if the City staff members knew their individual opinions and recommendations would be available for public inspection." However, section 552.111 does not provide an exception from disclosure for the names of public employees who provide advice, recommendation, and opinion as part of their job. The portion of a document that contains the name of a public employee is factual information that is not excepted under section 552.111. Open Records Decision No. 362 (1983) at 1; *see also* Open Records Decision No. 557 (1990) at 4-5 (portions of committee documents consisting of advice, opinion, and recommendation were excepted from disclosure, but names of committee members were not excepted from disclosure.) Section 552.022(2) also provides that the "name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body" are generally public information.

The city must therefore release the complete evaluation forms with the names of the evaluators. We are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Government Section

RHS/LRD/rho

Ref.: ID# 29103

²We note that this office has previously held that section 552.111 was applicable to the advice, opinion and recommendations used in the decision-making processes within an agency or between agencies. Open Records Decisions No. 574 (1990) at 1-2; 565 (1990) at 9. However, in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ), the court addressed the proper scope and interpretation of this section. In light of that decision, this office reexamined its past rulings. In Open Records Decision No. 615 (1993), we determined that in order to be excepted from disclosure, the advice, opinion and recommendations must be related to policymaking functions of the governmental body rather than to decision-making concerning routine personnel and administrative matters.

Enclosures: Submitted documents

cc: Mr. Stanley P. Toland
3718 Armstrong
Dallas, Texas 75205
(w/o enclosures)

Mr. Michael R. Johnson, Esq.
Johnson, Unell & Wolffarth
Plaza of the Americas
600 North Pearl Street
Suite 2460
Dallas, Texas 75201-2898
(w/o enclosures)

Mr. Mark E. Lavoy
Huber, Hunt & Nichols, Inc.
P.O. Box 35812
Dallas, Texas 75235-0612
(w/o enclosures)